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An Act To Improve the Organizational Structure of the Department of Health and Human Services

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 2 MRSA §104, sub-§9, ¶A, as amended by PL 2007, c. 441, §1, is further amended to read:

A. The following organizations shall forward data that documents key public health needs, organized by region of the State, to the council annually:

(1) The Department of Health and Human Services, Maine Center for Disease Control and Prevention; and

~~(2) The Maine Center for Public Health Practice established pursuant to Title 22, section 3-D; and~~

(3) A statewide public health association.

Sec. A-2. 22 MRSA §1, as amended by PL 1995, c. 560, Pt. J, §2 and PL 2003, c. 689, Pt. B, §§6 and 7, is repealed.

Sec. A-3. 22 MRSA §1-A is enacted to read:

§ 1-A. Definitions

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings.

1. Commissioner. "Commissioner" means the Commissioner of Health and Human Services.

2. Department. "Department" means the Department of Health and Human Services.

Sec. A-4. 22 MRSA §2, as amended by PL 1973, c. 567, §20, is repealed.

Sec. A-5. 22 MRSA §3, as amended by PL 1989, c. 167, §1 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. A-6. 22 MRSA §3-A, as amended by PL 2003, c. 708, §1, is repealed.

Sec. A-7. 22 MRSA §3-B, as enacted by PL 1977, c. 454, §1, is repealed.

Sec. A-8. 22 MRSA §3-C, as enacted by PL 1987, c. 730, §2, is repealed.

Sec. A-9. 22 MRSA §3-D, as enacted by PL 1995, c. 598, Pt. A, §1, is repealed.

Sec. A-10. 22 MRSA §4 is repealed.

Sec. A-11. 22 MRSA §6 is repealed.

Sec. A-12. 22 MRSA §6-A, as amended by PL 2005, c. 397, Pt. A, §18, is repealed.

Sec. A-13. 22 MRSA §6-B, as enacted by PL 1993, c. 738, Pt. F, §1 and amended by PL 1995, c. 560, Pt. K, §82 and affected by §83 and amended by PL 2001, c. 354, §3, is repealed.

Sec. A-14. 22 MRSA §6-C, as repealed and replaced by PL 2005, c. 397, Pt. A, §19, is repealed.

Sec. A-15. 22 MRSA §7, as amended by PL 1985, c. 785, Pt. B, §83 and Pt. C, §3, is repealed.

Sec. A-16. 22 MRSA §8, as enacted by PL 1965, c. 132, is repealed.

Sec. A-17. 22 MRSA §9, as amended by PL 1989, c. 400, §§4 and 14 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. A-18. 22 MRSA §9-A, as amended by PL 2001, c. 439, Pt. UU, §1, is repealed.

Sec. A-19. 22 MRSA §10, as amended by PL 1975, c. 771, §210, is repealed.

Sec. A-20. 22 MRSA §10-A, as enacted by PL 2005, c. 634, §10, is repealed.

Sec. A-21. 22 MRSA §11, as enacted by PL 1967, c. 544, §56, is repealed.

Sec. A-22. 22 MRSA §12, as amended by PL 1995, c. 694, Pt. D, §27 and affected by Pt. E, §2, is repealed.

Sec. A-23. 22 MRSA §12-A, as amended by PL 1995, c. 691, §2, is repealed.

Sec. A-24. 22 MRSA §12-B, as enacted by PL 1995, c. 368, Pt. TT, §1, is repealed.

Sec. A-25. 22 MRSA §13, as amended by PL 2005, c. 12, Pt. QQ, §1, is repealed.

Sec. A-26. 22 MRSA §4088, sub-§1, ¶D-1, as amended by PL 2003, c. 399, §2, is repealed.

Sec. A-27. 22 MRSA §4088, sub-§3, ¶B, as amended by PL 2003, c. 399, §3, is further amended to read:

B. Shall investigate all reports received by the department ~~or services center~~ regarding alleged out-of-home abuse and neglect occurring in facilities or by persons subject to licensure pursuant to this Title;

Sec. A-28. 22 MRSA §4088, sub-§3, ¶D, as amended by PL 2003, c. 399, §3, is further amended to read:

D. Shall coordinate and consult with the ~~bureau or services center staff~~department performing general licensing functions to eliminate duplicative or redundant investigations to the extent possible and to prevent, correct or eliminate the abuse or neglect or threat of abuse or neglect in out-of-home settings;

Sec. A-29. 22 MRSA §4088, sub-§3, ¶E, as amended by PL 2003, c. 399, §3, is further amended to read:

E. Shall provide the results of the investigation to the ~~bureau, services center~~department or another department for appropriate action. The team shall complete the investigation within a time frame not to exceed 6 months from the date of the initiation of the investigation, except in circumstances when the information necessary to complete the investigation is unavailable to the team;

Sec. A-30. 22 MRSA §4088, sub-§3, ¶G, as amended by PL 2003, c. 399, §3, is further amended to read:

G. When a report alleges out-of-home abuse and neglect in facilities or by persons not subject to licensure by the department ~~or services center~~, shall immediately refer the report to the ~~services center or agency or department~~ charged with the responsibility to investigate such a report or, if applicable, to the state department operating the facility;

Sec. A-31. 22 MRSA §4088, sub-§6, as enacted by PL 1989, c. 400, §9, is amended to read:

6. Assistance. Staff performing general licensing functions may assist the team in conducting out-of-home investigations upon the request of the ~~Director of the Bureau of Child and Family Services~~department, ~~provided that as long as~~ the licensing staff member has neither currently licensed nor monitored for compliance the subject of the investigation.

Sec. A-32. 22-A MRSA §201, sub-§2, as amended by PL 2005, c. 412, §5, is repealed.

Sec. A-33. 22-A MRSA §205, first ¶, as enacted by PL 2003, c. 689, Pt. A, §1, is amended to read:

The commissioner has all of the powers and duties necessary to carry out the mission and responsibilities of the department. The commissioner has the power to distribute the functions and duties given to the commissioner under this Title, Title 5, Title 19-A, Title 22 and Title 34-B among the various offices of the department so as to integrate the work properly and to promote the most economical and efficient administration of the department. Wherever in this Title, Title 5, Title 19-A, Title 22 or Title 34-B powers and duties are given to the commissioner or the department, these must be assumed and carried out by such of the offices that the commissioner designates and these powers and duties may in turn be delegated to subordinates by those office directors with the approval of the commissioner.

Sec. A-34. 22-A MRSA §205, sub-§4, as amended by PL 2005, c. 236, §3 and amended by c. 412, §6, is further amended to read:

4. Appointments. The following positions are appointed by the commissioner and serve at the pleasure of the commissioner: all deputy commissioners; all office directors; the regional systems integration directors; and the superintendents of any state institutions.

- A. ~~The Deputy Commissioner of Integrated Services;~~
- B. ~~The Deputy Commissioner of Health, Integrated Access and Strategy;~~
- C. ~~The Deputy Commissioner of Finance;~~
- D. ~~The Deputy Commissioner of Operations and Support;~~
- E. ~~The Director of the Office of MaineCare Services;~~
- F. ~~The Director of the Maine Center for Disease Control and Prevention;~~
- G. ~~The Director of the Office of Integrated Access and Support;~~
- H. ~~The Director of the Office of Adult Mental Health Services;~~
- I. ~~The Director of the Office of Adults with Cognitive and Physical Disability Services;~~
- J. ~~The Director of the Office of Child and Family Services;~~
- K. ~~The Director of the Office of Elder Services;~~
- L. ~~The Director of the Office of Substance Abuse Services;~~
- M. ~~The regional system integration directors;~~
- N. ~~The Director of Dorothea Dix Psychiatric Center; and~~
- O. ~~The Director of Riverview Psychiatric Center.~~

Deputy commissioners and office directors appointed pursuant to this subsection must have educational qualifications and professional experience directly related to the functions of and services provided by the relevant unit or office.

Sec. A-35. 22-A MRSA §206 is enacted to read:

§ 206. Additional duties of the commissioner

In addition to other duties set out in this Title, the commissioner has the following duties.

1. General. The commissioner has general supervision, management and control of the research and planning, grounds, buildings, property, officers, employees and clients of all state institutions.

2. Enforcement of laws. The commissioner shall enforce all laws concerning the institutions within the department, unless specific law enforcement duties are given by law to other persons.

3. Rules. Rules must be established as set out in this subsection.

A. The commissioner shall establish such rules, regulations, procedures and practices as the commissioner may determine appropriate or necessary for the care and management of the property of all state institutions, for the production and distribution of the products of the institutions, for guiding the institutions in determining whether to approve admissions and for the execution of the statutory purposes and functions of the institutions.

B. The central principle underlying all rules relating to residents of the institutions within the department is that the residents retain all rights of an ordinary citizen, except those expressly or by necessary implication taken from them by law.

4. Grievance procedures. The commissioner shall establish procedures for hearing grievances of clients who receive mental health services or mental retardation services or of children who receive behavioral health services. The procedures must include the opportunity for a timely hearing before a state hearing examiner or an independent fair hearing examiner. The commissioner may contract for the services of the hearing examiner or examiners, who shall conduct all adjudicatory proceedings pursuant to the Maine Administrative Procedure Act.

5. Residential child care facilities. The commissioner shall approve all programs for the provision of mental health services to residential child care facilities, as defined in Title 22, section 8101, subsection 4, and shall participate in licensure of these programs in accordance with Title 22, section 8104.

6. Abuse allegations in state institutions. The commissioner shall ensure appropriate intervention and remediation in cases of substantiated abuse and neglect in state institutions. The commissioner shall ensure, through inspection on a periodic basis, that all state institutions meet appropriate federal and state standards relating to the health, safety and welfare of clients of these institutions.

7. Establish standards of care. The commissioner shall establish standards of care for patients at the Riverview Psychiatric Center and the Dorothea Dix Psychiatric Center.

8. Substance abuse prevention and treatment. The commissioner shall administer and carry out the purposes of the Maine Substance Abuse Prevention and Treatment Act.

Sec. A-36. 22-A MRSA §207 is enacted to read:

§ 207. Additional powers of the commissioner

In addition to other powers granted in this Title, the commissioner has the powers set out in this section.

1. General powers. The commissioner may perform any legal act relating to the care, custody, treatment, relief and improvement of the residents of state institutions or may purchase residential services when the department does not provide the appropriate institutional services for the client.

2. Appointments of deputy commissioner and other employees. The commissioner's powers to appoint any deputy commissioner and other employees are as set out in this section.

A. The commissioner may appoint, subject to the Civil Service Law and except as otherwise provided, any employees who may be necessary.

B. The commissioner may appoint and set the salaries for one or more deputy commissioners to assist in carrying out the responsibilities of the department. Each appointment must be for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

C. The commissioner may appoint the following officials to serve at the commissioner's pleasure:

(1) Superintendent, Riverview Psychiatric Center;

(2) Superintendent, Dorothea Dix Psychiatric Center;

(3) Director, Elizabeth Levinson Center;

(4) Assistant to the Commissioner;

(5) Regional Systems Integration Directors; and

(6) Directors of office units.

D. The commissioner, with the approval of the Governor, may employ and set the salaries up to the maximum adjusted pay grade for clinical director positions. Clinical director positions are excluded from the definition of state employee under Title 26, section 979-A, subsection 6 and are not subject to the Civil Service Law. Employees in that classification hired after July 1, 1989 serve at the pleasure of the commissioner and must, as a condition of continued employment, maintain clinical privileges to practice medicine as determined by the respective medical staff and the superintendent of the facility.

E. Employees in the classification of clinical director may elect to retain current bargaining unit and civil service status. Employees so grandfathered retain salary and benefit entitlements provided for in current pay schedules and collective bargaining agreements.

3. Delegation. The commissioner's delegation powers are as set out in this subsection.

A. The commissioner may delegate powers and duties given under this Title to any deputy commissioner and chief administrative officers of state institutions.

B. The commissioner may empower any deputy commissioner and chief administrative officers of state institutions to delegate further powers and duties delegated to them by the commissioner.

4. Funding sources. In carrying out this Title the commissioner may apply for and accept from any other agency of government, person, group or corporation any funds that may be available.

5. Lease of unused buildings. The commissioner may, with the approval of the Director of the Bureau of General Services, lease unused buildings at the state institutions for the purposes of providing services to departmental clients.

A. The leases must be for a period not to exceed one year.

B. The commissioner shall submit a plan of the proposed leases and their impact on the institutions and departmental clients to the joint standing committee of the Legislature having jurisdiction over health and institutional services no later than January 31st of each year.

6. Nurse training. The commissioner may provide for the training of nurses.

7. Appearance of designated employees in Probate Court. The commissioner may designate employees of the department to represent the department in Probate Court only in:

A. Matters relating to the performance of duties in uncontested guardianship, conservatorship or termination of guardianship or conservatorship proceedings; and

B. Requests for emergency guardianships arising from the need for emergency medical treatment or placement in adult foster homes, boarding homes or nursing homes or for orders necessary to apply for or preserve an estate in emergency situations.

8. Physicians. Department employees in the classifications of physician I, II and III are unclassified state employees, as defined by Title 26, section 979-A, subsection 6, and are members of bargaining units, subject to Title 26, chapter 9-B. An employee in any of these classifications must, as a condition of continued employment, maintain necessary clinical privileges to practice medicine in that employee's position as determined by the respective medical staff and the superintendent of the facility. Any termination of employment due to a loss of clinical privileges to practice medicine under this subsection is not subject to the grievance procedure under any collective bargaining agreement.

9. Contracts with health care servicing entities. The commissioner may enter into contracts with health care servicing entities for the financing, management and oversight of the delivery of mental health, mental retardation and substance abuse services to clients pursuant to a state or federally sponsored health program in which the department participates or that the department administers. For the purposes of this subsection, "health care servicing entity" means a partnership, association, corporation, limited liability company or other legal entity that enters into a contract with the State to provide or arrange for the provision of a defined set of health care services; to assume responsibility for some aspects of quality assurance, utilization review, provider credentialing and provider relations or other related network management functions; and to assume financial risk for provision of such services to clients

through capitation reimbursement or other risk-sharing arrangements. "Health care servicing entity" does not include insurers or health maintenance organizations. In contracting with health care servicing entities, the commissioner:

A. Shall include in all contracts with the health care servicing entities standards, developed in consultation with the Superintendent of Insurance, to be met by the contracting entity in the areas of financial solvency, quality assurance, utilization review, network sufficiency, access to services, network performance, complaint and grievance procedures and records maintenance;

B. Prior to contracting with any health care servicing entity, must have in place a memorandum of understanding with the Superintendent of Insurance for the provision of technical assistance, which must provide for the sharing of information between the department and the superintendent and the analysis of that information by the superintendent as it relates to the fiscal integrity of the contracting entity;

C. May require periodic reporting by the health care servicing entity as to activities and operations of the entity, including the entity's activities undertaken pursuant to commercial contracts with licensed insurers and health maintenance organizations;

D. May share with the Superintendent of Insurance all documents filed by the health care servicing entity, including documents subject to confidential treatment if the information is treated with the same degree of confidentiality as is required of the department; and

E. May make all necessary rules for the administration of contracts with health care servicing entities. All rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

10. Ad hoc committee compensation. The commissioner is authorized to provide compensation to persons who are consumers or family members of consumers of departmental services who are members of ad hoc committees. The compensation may not exceed \$25 per day and payment of expenses. Total compensation expenses of the department under this subsection in any fiscal year may not exceed \$7,500.

Sec. A-37. 22-A MRSA §208 is enacted to read:

§ 208. Maintenance

The commissioner shall maintain 2 state mental health institutes for the mentally ill, one at Bangor called the Dorothea Dix Psychiatric Center and the other at Augusta called the Riverview Psychiatric Center.

Sec. A-38. 22-A MRSA §209 is enacted to read:

§ 209. Maintenance of facilities

The department shall maintain and is responsible for the supervision of services in the Elizabeth Levinson Center for children in need of treatment.

Sec. A-39. 22-A MRSA §210 is enacted to read:

§ 210. Elizabeth Levinson Center

1. Establishment. There is established the Elizabeth Levinson Center at Bangor, referred to in this section as "the center," which must be maintained for the training, education, treatment and care of persons who are mentally retarded and children in need of treatment.

2. Director. The chief administrative officer of the Elizabeth Levinson Center is the director of the center.

A. The commissioner shall appoint and set the salary for the director.

B. The director is appointed for an indefinite term and serves at the pleasure of the commissioner until a successor is appointed and qualified.

C. In order to qualify for appointment as the director, a person must have sufficient education and experience to administer a facility providing services to children in need of treatment.

3. Duties of the director. The director:

A. Is responsible for the training, education, treatment and care of all persons received into or receiving services from the center;

B. Is responsible for the discharge of all persons received into the center; and

C. Shall maintain direct supervision, management and control of the grounds, buildings, property, officers and employees of the center, subject to the approval of the commissioner.

4. Admission to the center. Persons or children with mental retardation in need of treatment may be admitted to the center in any of the ways described in this subsection.

A. When considered necessary by a planning team and with the consent of the director, persons may be admitted to the center's short-term evaluation program for a period of 40 program days, excluding weekends, without certification.

B. Respite care may be provided to any person by the center without full compliance with the procedures for admission by judicial certification under Title 34-B, section 5475 if the purpose of the respite care is for evaluation, diagnosis or other clearly stated and broadly defined therapeutic purposes of the person or the person's family.

(1) Respite care may be provided, upon application to the department by the person, the person's guardian or the person's parent, for not more than 21 days at a time and not more than 60 days during any 12-month period.

(2) Continuing placement in the center beyond the time periods stated in subparagraph 1, if indicated, is permitted only upon full compliance with Title 34-B, section 5475.

C. Admission to the center by judicial certification may be accomplished according to the procedures in Title 34-B, section 5475.

5. Applicability of laws. If a child with mental retardation in need of treatment is admitted to the center, all provisions in Title 34-B, chapter 5 that are applicable to state institutions apply to the center with respect to that child.

Sec. A-40. 22-A MRSA §211 is enacted to read:

§ 211. Municipal grants

The department is authorized to make grants to cities and towns within the State, or to nonprofit corporations organized for purposes related to public health or welfare, out of federal funds when such grants are permitted by the terms under which the federal funds are available. Such grants must be made in conformity with applicable federal requirements and standards and with appropriate state accounting requirements and in accordance with regulations of the department.

Sec. A-41. 22-A MRSA §212 is enacted to read:

§ 212. Service delivery regions

The commissioner shall organize regional service delivery in accordance with the regional boundaries set out in this section.

1. Region I. Region I is all of York County and Cumberland County.

2. Region II. Region II is all of Franklin County, Oxford County, Androscoggin County, Somerset County, Kennebec County, Waldo County, Knox County, Lincoln County and Sagadahoc County.

3. Region III. Region III is all of Piscataquis County, Penobscot County, Hancock County, Washington County and Aroostook County.

Sec. A-42. 22-A MRSA §213 is enacted to read:

§ 213. Fees for service

1. Reasonable fees authorized. The department may charge reasonable fees for any services provided under this Title, Title 5, Title 22 or Title 34-B, whether directly or indirectly provided by the department. Any fees thus received constitute a permanent fund for use by the department as special revenue income and do not become part of the General Fund. Fees so generated must be used in accordance with federal regulations.

2. Sliding fee scale. The department may establish a sliding fee scale for the provision of community-based purchased services administered by the department.

A. The sliding fee scale must be based on gross family income and family size.

B. Any fees charged as a result of implementing this subsection must be paid to the provider of the service and be used by the provider for additional services of the same or related type for which the fees were paid.

Sec. A-43. 22-A MRSA §214 is enacted to read:

§ 214. Federal funds and commodities

The commissioner, with the consent and approval of the Governor, is authorized and empowered to accept any allotments of federal funds and commodities, to manage and dispose of the same in whatever manner required by federal law and put into effect the United States Social Security Act and any amendments of that act and of other federal acts relating to public welfare.

Sec. A-44. 22-A MRSA §215 is enacted to read:

§ 215. Coordination and reporting on expenditure of funds pertaining to homeland security and bioterrorism prevention

The commissioner shall coordinate in a mutually agreed upon manner with the Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management on the planning and expenditure of all federal funds received by the department for homeland security emergency preparedness purposes or for the prevention of bioterrorism and provide a report annually, beginning December 15, 2006, to the Homeland Security Advisory Council established in Title 37-B, section 708. The advisor for the Homeland Security Advisory Council shall report by January 15th of each year, beginning in 2007, on the expenditure of such funds to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The report must include, but is not limited to, the amount of funds expended in the prior year, the purpose of those expenditures, the effect of those expenditures on homeland security and bioterrorism prevention and the plans for coordination with the Maine Emergency Management Agency for the expenditure of the funds received or anticipated for such purposes in the 2 years following submission of the report.

Sec. A-45. 22-A MRSA §216 is enacted to read:

§ 216. Funds for social services

The department shall administer any funds that may be available from private, local, state or federal sources for the provision of social services as defined by the department. Within any limitation that may apply from the sources of such funds, the department may provide said social services itself, or assure itself of the provision of such services by purchase of services, by contracts or by grants, or by joint provision of services, by contracts or by grants, or by joint provision of services with other agencies through matching agreements.

The department shall adopt rules as necessary to define eligibility for social services, contractual terms, conditions for grants, matching ratios and quality of performance standards and such others as are necessary for the administration of this section. These rules must be published and subject to a 30-day public review prior to taking final effect.

The department may expend any unidentified child support payments and any interest earned on those funds that the department has received when the department cannot identify the child for which payment was made. The department may expend these funds only in its efforts to enforce child support laws in accordance with Title 19-A, chapters 53, 63, 65 and 67. Before making any expenditure, the department must wait at least 12 months from the date the unidentified funds were received.

Sec. A-46. 22-A MRSA §217 is enacted to read:

§ 217. Performance-based contracts

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the commissioner shall manage all funds available for the provision of social services in accordance with the provisions of this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a legally binding written document between 2 or more parties, including such documents as are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.

B. "Performance-based contract" means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided.

2. Performance-based contract. The commissioner shall ensure that all agreements to purchase social services are performance-based contracts.

3. Rules. The commissioner shall adopt rules to implement this section, including, but not limited to, the establishment of program goals, outcome measures, an information management system to collect and manage contract data, a system of ongoing assessment of program effectiveness and hold-harmless guidelines for provider agencies during the first contract period or 12 months, whichever is greater.

4. Procedures. The procedures in this subsection apply whenever the commissioner commences a request-for-proposal procedure.

A. The commissioner shall hold at least one informational meeting at least 30 days before the due date for submission of the notice of intent to bid. Any informational meeting must be advertised in newspapers of general circulation stating the location, date, time and purpose of the meeting. At

the meeting the commissioner shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions.

B. The commissioner shall require any interested party to submit a notice of intent to bid at least 30 days before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain minimal requirements that demonstrate a prospective bidder's competence and ability to comply with the requirements of the contract.

C. If only one community service provider submits a notice of intent to bid, the commissioner may enter into negotiations concerning a contract with that provider in accordance with the procedures established for performance-based contracts.

D. For purposes of this section, the commissioner retains the right to reject any bids submitted and any proposals made during negotiations pursuant to paragraph C.

Sec. A-47. 22-A MRSA §218 is enacted to read:

§ 218. State wards

When a state ward becomes 18 years of age and the state ward and the department agree that need for care and support for educational, social or physical reasons exists, the department is authorized to continue care and support of this person up to 21 years of age.

When a state ward who is enrolled in a postsecondary education program becomes 21 years of age prior to the completion of the postsecondary education program, the department is authorized, at its discretion and by agreement with that state ward, to continue providing support for room, board and related education expenses until the state ward becomes 23 years of age. Funds allocated under this section must come from an identified education and training account specifically established for the postsecondary education-related costs of state wards after they become 21 years of age and before they become 23 years of age.

Sec. A-48. 34-B MRSA §1201, as amended by PL 2001, c. 354, §§1 and 3, is repealed.

Sec. A-49. 34-B MRSA §1201-A, as amended by PL 2005, c. 397, Pt. A, §42, is repealed.

Sec. A-50. 34-B MRSA §1201-B, as enacted by PL 1993, c. 738, Pt. F, §2, is repealed.

Sec. A-51. 34-B MRSA §1202, as amended by PL 2001, c. 439, Pt. J, §§4 and 5 and PL 2003, c. 689, Pt. B, §7, is repealed.

Sec. A-52. 34-B MRSA §1203, as amended by PL 2007, c. 80, §1, is repealed.

Sec. A-53. 34-B MRSA §1204, as amended by PL 2007, c. 286, §1, is repealed.

Sec. A-54. 34-B MRSA §1401, as amended by PL 1995, c. 560, Pt. K, §§25 and 26 and PL 2005, c. 236, §§3 and 4, is repealed.

Sec. A-55. 34-B MRSA §3201, as amended by PL 2005, c. 236, §2, is repealed.

Sec. A-56. 34-B MRSA §3202, as amended by PL 1995, c. 560, Pt. K, §35 and PL 2005, c. 236, §§3 and 4, is repealed.

Sec. A-57. 34-B MRSA §6251, as amended by PL 1995, c. 560, Pt. K, §75, is repealed.

Sec. A-58. 34-B MRSA §6252, as amended by PL 2003, c. 389, §25, is repealed.

PART B

Sec. B-1. 4 MRSA §807, sub-§3, ¶H, as corrected by RR 2003, c. 2, §1, is amended to read:

H. A person who is not an attorney but has been designated to represent the Department of Health and Human Services under Title 22, section 3473, subsection 3 or under ~~Title 34-B, section 1204,~~ subsection 7 Title 22-A, section 207, subsection 7 in Probate Court proceedings;

Sec. B-2. 5 MRSA §19203, sub-§8, as amended by PL 1989, c. 487, §1, is further amended to read:

8. Department of Health and Human Services. To the ~~Bureau of Health~~Department of Health and Human Services, which may disclose results to other persons only if that disclosure is necessary to carry out its duties as provided in Title 22, ~~sections 3, 7 and~~section 42 and chapters 250 and 251;

Sec. B-3. 5 MRSA §20006-A, sub-§3, as enacted by PL 1995, c. 560, Pt. L, §8 and affected by §16, is amended to read:

3. Other duties and powers. Carry out other duties and exercise other powers granted to the director under this Act and delegated to the director by the commissioner under Title ~~34-B~~22-A, ~~section 1204~~section 207, subsection 3.

Sec. B-4. 22 MRSA §2804, as amended by PL 1987, c. 259, §1, is further amended to read:

§ 2804. Index

The Registrar of Vital Statistics shall prepare and keep an alphabetical index, by the names of both parties, of all annulments and divorces reported. When requested, the registrar shall cause a search to be made of ~~his~~the files for the record of any divorce or annulment and shall furnish a copy thereof. The fee for such search and copy ~~shall~~must reasonably reflect the cost of the service, as specified in ~~section 9~~Title 22-A, section 213, subsection 1.

Sec. B-5. 22 MRSA §3731, sub-§4, as enacted by PL 1993, c. 158, §2, is amended to read:

4. Region. "Region" means a service delivery region established pursuant to ~~section 6-A~~Title 22-A, section 212.

Sec. B-6. 22 MRSA §5105, 3rd ¶, as repealed and replaced by PL 1975, c. 771, §231, is amended to read:

The bureau shall ~~be~~is administered by a director ~~who shall be appointed as provided in section 1.~~

Sec. B-7. 22 MRSA §5309, first ¶, as repealed and replaced by PL 1975, c. 771, §233, is amended to read:

The bureau shall be administered by a director who shall be appointed as provided in section 1.

Sec. B-8. 24-A MRSA §10, sub-§6, as enacted by PL 1997, c. 676, §4 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

6. The government contracting activities of a health care servicing entity, as defined in Title 34-B, section 1204, Title 22-A, section 207, subsection 9, contracting, whether directly or as a subcontractor, with the Department of Health and Human Services, unless otherwise expressly provided by this Title. This Title may apply to any other insurance or managed care activities of a health care servicing entity.

Sec. B-9. 26 MRSA §1403, sub-§1, as enacted by PL 1997, c. 443, §1, is amended to read:

1. Nondisplacement of existing employees; nonavailability for layoff replacement; noninfringement on promotional opportunities or collective bargaining agreements; labor disputes. A participant who is required to work as a condition of receiving public assistance, as defined in Title 22, section 9-A, subsection 1, paragraph A, may not be employed in or assigned to:

- A. A position that was previously filled by a regular employee when that employee is on layoff from the same or an equivalent position or when the vacancy was created by terminating an employee or otherwise reducing the workforce;
- B. An established position that is vacant;
- C. A worksite where there is a labor dispute, including a strike or lockout; or
- D. A worksite in a manner that violates an existing contract or collective bargaining agreement or infringes on the promotional opportunities for any employees.

Sec. B-10. 34-B MRSA §5475, sub-§1, ¶B, as enacted by PL 1983, c. 459, §7, is amended to read:

B. The petition may not be filed by the chief administrative officer of a regional office until the chief administrative officer of the regional office has obtained approval for the admission by the chief administrative officer of the facility under rules ~~promulgated~~adopted by the commissioner under section 1203, subsection 3.

Sec. B-11. 37-B MRSA §505, sub-§5, as enacted by PL 2001, c. 439, Pt. UU, §2, is amended to read:

5. Public assistance designation. Assistance granted to veterans or their dependents pursuant to this section is designated public assistance ~~for the purposes of providing public assistance within the meaning of Title 22, section 9-A.~~ The department retains administrative responsibility for assistance granted under this section.

SUMMARY

Part A of this bill consolidates provisions in the Maine Revised Statutes, Titles 22 and 34-B with existing provisions in Title 22-A to the extent that Titles 22 and 34-B described the Department of Health and Human Services' organizational structure and the Commissioner of Health and Human Services' powers and duties. Some provisions are repealed because redundant; some are repealed or rewritten to give the commissioner more flexibility in organizing the department, appointing staff and delegating the various duties of the department among staff.

1. It repeals redundant text in Title 22, section 1 concerning the establishment of the department and appointment of the commissioner. The bill also repeals language about the qualifications required of certain bureau directors.

2. It repeals Title 22, section 2, which referred to legal services obtained from the Attorney General or the district attorneys.

3. It repeals Title 22, section 3, which referred to the jurisdiction of the department and the requirement to report annually about services contracted with community providers.

4. It repeals Title 22, section 3-A, which referred to support for certain state wards. This text is moved to Title 22-A, section 218.

5. It repeals Title 22, section 3-B, which referred to the ability of a licensed children's home to consent to a state ward's medical treatment.

6. It repeals Title 22, section 3-C, which established a clearinghouse of information about handicapped housing accessibility.

7. It repeals Title 22, section 3-D, which permitted the department to establish a center for public health practice.

8. It repeals Title 22, section 4, which required the department to render opinions about the organization of certain institutions subject to the department's inspection.

9. It repeals Title 22, section 6, which described the commissioner's authority to distribute the functions of the department among the various offices. This text is moved to Title 22-A, section 205.

10. It repeals Title 22, section 6-A, which described the 3 service delivery regions. This text is moved to Title 22-A, section 212.

11. It repeals Title 22, section 6-B, which described the requirement of joint location of services offered by the former Department of Behavioral and Developmental Services and the former Department of Human Services.

12. It repeals Title 22, section 6-C, which described the Community Services Center, its purposes and its functions.

13. It repeals Title 22, section 7, which described the department's additional duties to provide services to sick, dependent, defective and delinquent persons.

14. It repeals Title 22, section 8, which described the department's authority to provide complementary services to persons unable to provide for themselves.

15. It repeals Title 22, section 9, which authorized the department to charge fees for services. This text is moved to Title 22-A, section 213.

16. It repeals Title 22, section 9-A, which described public assistance eligibility by cross-reference to other statutory provisions.

17. It repeals Title 22, section 10, which empowered the commissioner to accept federal funds and commodities. This text is moved to Title 22-A, section 214.

18. It repeals Title 22, section 10-A, which required the Director of the Maine Center for Disease Control and Prevention to work with other state agencies on homeland security preparedness. This text is moved to Title 22-A, section 215 substituting the commissioner for the director as the responsible party.

19. It repeals Title 22, section 11, which authorized the department to make grants to municipalities for purposes related to public health or welfare. This text is moved to Title 22-A, section 211.

20. It repeals Title 22, section 12, which required the department to administer social services funds from any source and to adopt rules regarding eligibility and standards. This text is moved to Title 22-A, section 216.

21. It repeals Title 22, section 12-A, which established requirements for performance-based contracts. This text is moved to Title 22-A, section 217.

22. It repeals Title 22, section 12-B, which required the commissioner to distribute funds available within the aid to charitable institutions program to certain named agencies.

23. It repeals Title 22, section 13, which authorized the commissioner to create a human services fraud investigation unit.

24. It amends Title 22-A, section 201, which established the department. It eliminates the detailed list of 4 units of the department, as well as the offices to be located within each unit, in order to give the commissioner more flexibility to establish and change the structural organization of the department from time to time.

25. It amends Title 22-A, section 205 by moving text in from Title 22 to explain the commissioner's authority to delegate and reassign functions of the department to different offices from time to time. It describes the commissioner's authority to appoint senior staff without listing detailed titles for each.

26. It repeals Title 34-B, section 1201, which described the establishment of the department.

27. It repeals Title 34-B, section 1201-A, which described the 3 service delivery regions.

28. It repeals Title 34-B, section 1201-B, which required the joint location of services with the former Department of Behavioral and Developmental Services and the former Department of Human Services.

29. It repeals Title 34-B, section 1202, which described the appointment of the commissioner.

30. It repeals Title 34-B, section 1203, which described additional duties of the commissioner, and moves the text to Title 22-A, section 206. It amends the text by eliminating the prohibition against using department employees as hearing officers for grievances and by amending the commissioner's duty to establish grievance procedures for clients to include clients receiving mental health services or mental retardation services and children who receive behavioral health services.

31. It repeals Title 34-B, section 1204, which described additional powers of the commissioner relating to state institutions, clinical directors, lease of buildings, nurse training, appearances by employees in Probate Court, physicians, contracts with health care servicing entities and ad hoc committee compensation, and moves the text, with minor amendments, to Title 22-A, section 207.

32. It repeals Title 34-B, section 1401, which described the appointment of officers to operate state institutions.

33. It repeals Title 34-B, section 3201, relating to the maintenance of 2 state mental health institutes, and moves the text to Title 22-A, section 208.

34. It repeals Title 34-B, section 3202, which described the position of superintendent at both state mental health institutions.

35. It repeals Title 34-B, section 6251, which required the department to maintain 2 facilities for children in need of treatment, and moves the text to Title 22-A, section 209. The text is updated to include only the one remaining institution for children, the Elizabeth Levinson Center.

36. It repeals Title 34-B, section 6252, which described the establishment of the Elizabeth Levinson Center, the qualifications and duties of the director and the standards for admission to the center. This text is moved to Title 22-A, section 210, with minor and technical amendments.

Part B of this bill corrects statutory cross-references to reflect changes made in Part A.